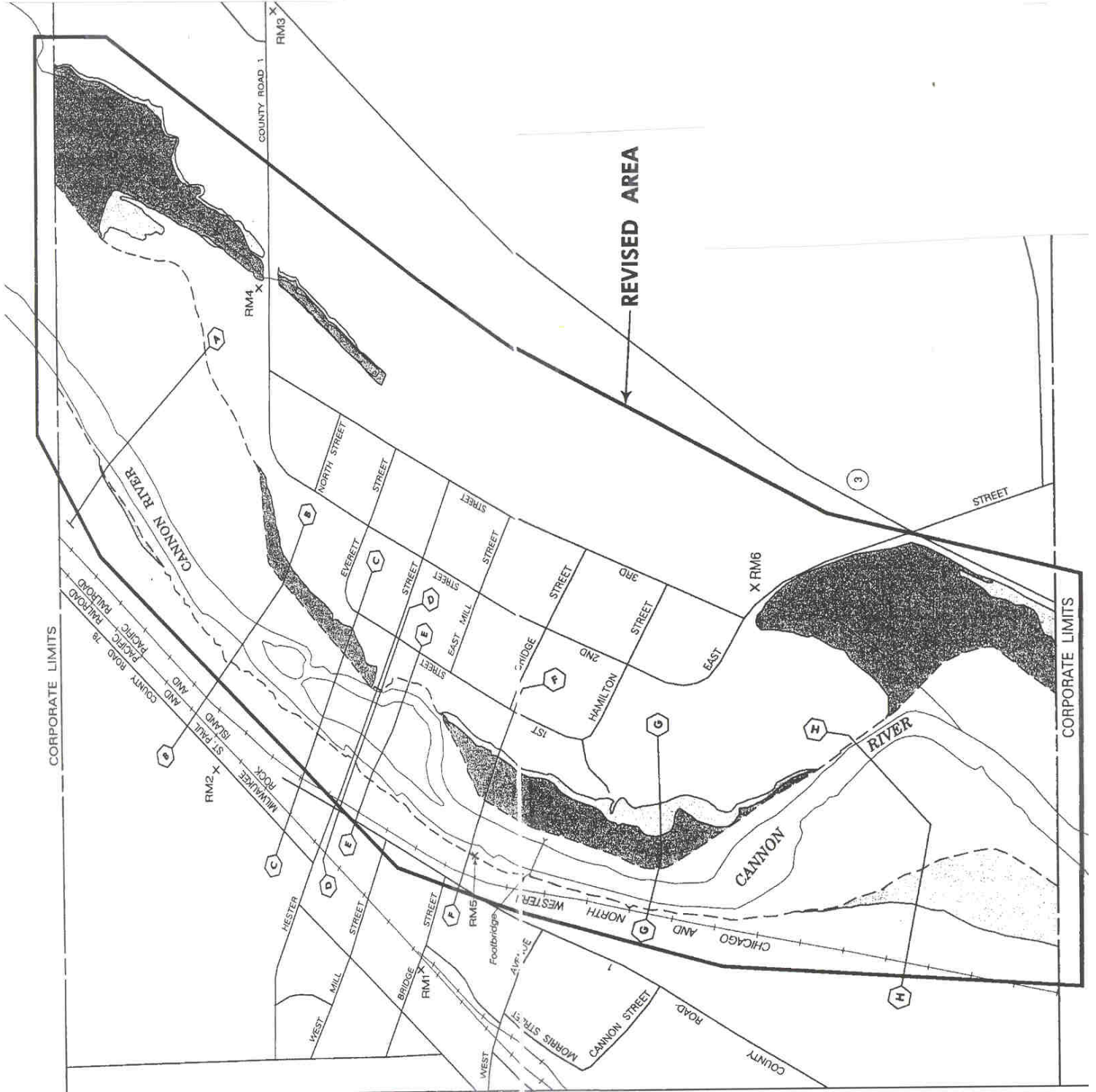


**CHAPTER 1504: TWO-DISTRICT FLOOD PLAIN MANAGEMENT ORDINANCE  
TWO-MAP FORMAT**

Section

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APPROXIMATE SCALE IN FEET  
 500 0 50


NATIONAL FLOOD INSURANCE PROGRAM

# FLOODWAY FLOOD BOUNDARY AND FLOODWAY MAP

CITY OF  
 DUNDAS,  
 MINNESOTA  
 RICE COUNTY  
 ONLY PANEL PRINTED

**REVISED TO  
 REFLECT LOMR  
 DATED MAY 01 2002**

COMMUNITY-PANEL NUMBER  
 270403 0007  
 EFFECTIVE DATE:  
 APRIL 15, 1982



Federal Emergency Management Agency

**§ 1504.01**     *STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE.*

A.     STATUTORY AUTHORIZATION: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 104 and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the Dundas City Council of the City of Dundas, Minnesota, does ordain as follows:

B.     FINDINGS OF FACT:

1.     The flood hazard areas of the City of Dundas, Minnesota, are subject to periodic inundation which results in potential loss of commerce and governmental services, extraordinary public expenditures of which adversely affect the public health, safety, and general welfare.

2.     Methods Used to Analyze Flood Hazards: This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

C.     STATEMENT OF PURPOSE: It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in paragraph B.1. by provisions contained herein.

**§ 1504.02**     *GENERAL PROVISIONS.*

A.     LANDS TO WHICH ORDINANCE APPLIES: This Ordinance shall apply to all lands within the jurisdiction of the City of Dundas shown on the Official zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe Districts.

B.     ESTABLISHMENT OF OFFICIAL ZONING MAP: The Official Zoning Map of the City of Dundas, together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Ordinance. The attached material shall include the Flood Insurance Study for the City of Dundas prepared by the Federal Insurance Administration dated October 15, 1981, and the Flood Boundary and Floodway Map dated April 15, 1982, and Flood Insurance Rate Map dated April 15, 1982, as revised on December 18, 2001, by the Federal Emergency Management Agency (FEMA) Letter of Map Revision, including all maps, profiles and attachments to said Letter of Map Revision.

The Official Zoning Map, and all materials attached thereto, shall be on file in the office of the Dundas City Clerk.

C.     REGULATORY FLOOD PROTECTION ELEVATION: The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

D. INTERPRETATION:

1. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

2. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

E. ABROGATION AND GREATER RESTRICTIONS: It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

F. WARNING AND DISCLAIMER OF LIABILITY: This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Dundas or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

G. SEVERABILITY: If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

H. DEFINITIONS: Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

**Accessory Use or Structure** – a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**Basement** – means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

**Conditional Use** – means a specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that:

- a. Certain conditions as detailed in the zoning Ordinance exist; and
- b. The structure and/or land use conform to the comprehensive land use plan, if one exists, and are compatible with the existing neighborhood.

**Equal Degree of Encroachment** – a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

**Flood** – a temporary increase in the flow or stage of a stream, or in the stage of a wetland or lake that results in the inundation of normally dry areas.

**Flood Frequency** – the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

**Flood Fringe** – that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for the City of Dundas.

**Flood Plain** – the beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

**Flood-Proofing** – a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

**Floodway** – the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

**Obstruction** – any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

**Principal Use or Structure** – means all uses or structures that are not accessory uses or structures.

**Reach** – a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

**Regional Flood** – a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

**Regulatory Flood Protection Elevation** – The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**Structure** – anything constructed or erected on the ground or attached to the ground or on-site utilities, including but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in §1504.09 C1 of the Ordinance and other similar items.

**Variance** – means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community’s respective planning and zoning enabling legislation.

**§ 1504.03**     *ESTABLISHMENT OF ZONING DISTRICTS.*

A.     DISTRICTS:

1.     Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map adopted in § 1504.02 B.
2.     Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map adopted in §1504.02 B.

B.     COMPLIANCE:     No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses in §§ 1504.04, 1504.05 and 1504.06 that follow, respectively, shall be prohibited. In addition, a caution is provided here that:

1.     New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Ordinance and specifically § 1504.09;

2. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically § 1504.11; and

3. As-built elevations for elevated or flood-proofed structures must be certified by ground surveys, and flood-proofing techniques must be designed and certified by a registered professional engineer or architect, as specified in the general provisions of this Ordinance and specifically as stated in § 1504.10 of this Ordinance.

**§ 1504.04** *FLOODWAY DISTRICT (FW).*

A. PERMITTED USES:

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

2. Industrial-commercial loading areas, parking areas, and airport landing strips.

3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

B. STANDARDS FOR FLOODWAY PERMITTED USES:

1. The use shall have a low flood damage potential.

2. The use shall be permissible in the underlying zoning district if one exists.

3. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

C. CONDITIONAL USES:

1. Structures accessory to the uses listed in § 1504.04 A above and the uses listed below.

2. Extraction and storage of sand, gravel, and other materials.

3. Marinas, boat rentals, docks, piers, wharves, and water control structures.

4. Railroads, streets, bridges, utility transmission lines, and pipelines.

5. Storage yards for equipment, machinery, or materials.

6. Placement of fill.
7. Travel trailers and travel vehicles either on individual lots of record, or in existing or new subdivisions, or commercial or condominium type campgrounds, subject to the exemptions and provisions of § 1504.09 C of this Ordinance.
8. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

D. STANDARDS FOR FLOODWAY CONDITIONAL USES:

1. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
2. All floodway Conditional Uses shall be subject to the procedures and standards contained in § 1504.10 D of this Ordinance.
3. The conditional use shall be permissible in the underlying zoning district if one exists.
4. Fill:
  - a. Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
  - b. Dredge spoil sites, and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
  - c. As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal, and sand and gravel operations may allow temporary, on-site storage of fill or other material which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the Office of the County Recorder.
5. Accessory Structures:
  - a. Accessory structures shall not be designed for human habitation.

b. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

(1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and

(2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

c. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

(2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood-proofed.

6. *Storage of Materials and Equipment:*

a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

7. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

8. A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

**§ 1504.05. FLOOD FRINGE DISTRICT (FF).**

A. PERMITTED USES: Permitted Uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure of land shall be a Permitted Use in the Flood Fringe provided such use does not constitute a public nuisance. All Permitted Uses shall comply with the standards for Flood Fringe “Permitted Uses” listed in §1504.05 B and the standards for all Flood Fringe “Permitted and Conditional Uses” listed in §1504.05 E.

B. STANDARDS FOR FLOOD FRINGE PERMITTED USES:

1. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
2. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood-proofed in accordance with § 1504.04 D.5c.
3. The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a Conditional Use, unless said fill is specifically intended to elevate a structure in accordance with §1504.05 B1 of this Ordinance.
4. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.
5. The provisions of § 1504.05 E of this Ordinance shall apply.

C. CONDITIONAL USES: Any structure that is not elevated on fill or flood-proofed in accordance with § 1504.05 B1 and B2 or any use of land that does not comply with the standards in § 1504.05 B3 and B4 shall only be allowable as a Conditional Use. An application for a Conditional Use shall be subject to the standards and criteria and evaluation procedures specified in § 1504.05 D and E, and § 1504.10 D of this Ordinance.

D. STANDARDS FOR FLOOD FRINGE CONDITIONAL USES:

1. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if:

- (1) If the enclosed area is above-grade on at least one side of the structure;
- (2) Is designed to internally flood and is constructed with flood resistant materials; and
- (3) Is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

a. Design and Certification – The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

b. Specific Standards for Above-grade, Enclosed Areas – Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(1) The minimum area of openings in the walls where internal flooding is to be used as a flood-proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one-foot above-grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

(2) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

2. Basements, as defined by § 1504.02 H of this Ordinance, shall be subject to the following:

a. Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

b. Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood-proofed in accordance with § 1504.05 D3 of this Ordinance.

3. All areas of non residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classification shall not be permitted.

4. When at any one time more than one-thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management Ordinance. In the absence of a state approved shoreland Ordinance, the plan must clearly specify methods to be used to stabilize the fill on-site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

5. Storage of Materials and Equipment:

a. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

b. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

6. The provisions of § 1504.05 E of this Ordinance shall also apply.

E. STANDARDS FOR ALL FLOOD FRINGE USES:

1. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a

variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

2. Commercial Uses – accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would inundated to a depth greater than two (2) feet or be subject to flood velocities greater than four (4) feet per second upon occurrence of the regional flood.

3. Manufacturing and Industrial Uses – measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in § 1504.05 E2 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

4. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation – FEMA’s requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

5. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

6. Standards for travel trailers and travel vehicles are contained in § 1504.09 C.

7. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

**§1504.06      RESTRICTIONS ON LAND NOT WITHIN FLOODWAY OR FLOOD FRINGE DISTRICTS:**

*History: Amended Ord. 2002-04*

A. The following restrictions shall apply to land which is not located within the Floodway District or the Flood Fringe District, as designated on the Official Zoning Map adopted in §1504.02 B of this Ordinance.

1. No new structure shall be used and no structure shall be located, extended, converted or structurally altered within the following described area, unless the lowest floor level is at or above an elevation of 924.5 feet:

a) *The Dundas Commercial Park Second Addition, lying South of Hester Street.*

b) *All land lying easterly of Third Street, westerly of the Dundas Commercial Park Second Addition, and South of Hester Street.*

2. No new structure shall be used and no structure shall be located, extended, converted or structurally altered within the following described area, unless the lowest floor level is at or above an elevation of 922.0 feet:

a) *All that part of the Dundas Commercial Park Addition lying North of Hester Street.*

b) *All land lying easterly of Third Street, westerly of the Dundas Commercial Park Addition, and northerly of Hester Street.*

B All structures constructed in the above described areas, shall be subject to “as built” requirements of this Ordinance set forth in § 1504.03 B3 and § 1504.10B of this Ordinance.”

**§ 1504.07.      *SUBDIVISIONS*<sup>2</sup>.**

A. **REVIEW CRITERIA:** No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory

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This Section is not intended as a substitute for a comprehensive city or county subdivision Ordinance. It can, however, be used as an interim control until the comprehensive subdivision Ordinance can be amended to include necessary flood plain management provisions.

Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

B. REMOVAL OF SPECIAL FLOOD HAZARD AREA DESIGNATION: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

**§ 1504.08. PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES.**

A. PUBLIC UTILITIES. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

B. PUBLIC TRANSPORTATION FACILITIES. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with § 1504.04 and § 1504.05 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

C. ON-SITE SEWAGE TREATMENT AND WATER SUPPLY SYSTEMS: Where public utilities are not provided:

1. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and
2. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

**§ 1504.09. MANUFACTURED HOMES AND MANUFACTURED HOME PARKS AND PLACEMENT OF TRAVEL TRAILERS AND TRAVEL VEHICLES.**

A. New Manufactured home parks and expansions to existing mobile manufactured home parks shall be subject to the provisions placed on subdivisions by § 1504.07 of this Ordinance.

B. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with § 1504.05 of this Ordinance. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with § 1504.05 E1, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.

1. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

C. Travel trailers and travel vehicles that do not meet the exemption criteria specified in §1504.09 C1 below shall be subject to the provisions of this Ordinance and as specifically spelled out in §1504.09 C3 and C4 below.

1. Exemption – Travel trailers and travel vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in § 1504.09 C2 below and further they meet the following criteria:

a. Have current licenses required for highway use.

b. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

c. The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

2. Areas Exempted for Placement of Travel/Recreational Vehicles:

a. Individual lots or parcels of record.

b. Existing commercial recreational vehicle parks or campgrounds.

c. Existing condominium type associations.

3. Travel trailers and travel vehicles exempted in § 1504.09 C1 lose this exemption when development occurs on the parcel exceeding \_\_\_\_\_ dollars for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing

requirements and the use of land restrictions specified in § 1504.04 and § 1504.05 of this Ordinance.

4. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

a. Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with § 1504.05 E1 of this Ordinance. Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of § 1504.04.

b. All new or replacement travel trailers or travel vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a Conditional Use if in accordance with the following provisions and the provisions of § 1504.10 D of the Ordinance. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with §1504.08 C of this Ordinance.

**§ 1504.10. ADMINISTRATION.**

A. ZONING ADMINISTRATOR: A Zoning Administrator designated by the Governing Body shall administer and enforce this Ordinance. If the zoning Administrator finds a violation of the provisions of this Ordinance the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in § 1504.12 of the Ordinance.

B. PERMIT REQUIREMENTS:

1. Permit Required. A Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

2. Application for Permit. Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include

the following, where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

3. State and Federal Permits. Prior to granting a Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

4. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance.

5. Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance. Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by § 1504.12 of this Ordinance.

6. Certification. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

7. Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood-proofed.

C. BOARD OF ADJUSTMENT:

1. Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

2. Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.

3. Variances. The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest

and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No Variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

4. Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

5. Decisions. The Board shall arrive at a decision on such appeal or Variance within ninety (90) days. In passing upon an appeal, the board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing, setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards such as those specified in § 1504.10 D6, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Ordinance punishable under § 1504.12. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

6. Appeals. Appeals from any decision of the Board may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.

7. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that:

a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

b. Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

D. CONDITIONAL USES. The Dundas City Council shall hear and decide applications for Conditional Uses permissible under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to Dundas City Council for consideration.

1. Hearings. Upon filing with the Dundas City Council an application for a Conditional Use Permit, the Dundas City Council shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

2. Decisions. The Dundas City Council shall arrive at a decision on a Conditional Use within ninety (90) days. In granting a Conditional Use Permit the Dundas City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in § 1504.10 D6, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance punishable under § 1504.12. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

3. Procedures to be Followed by the Dundas City Council in Passing on Conditional Use Permit Applications Within All Flood Plain Districts.

a. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Dundas City Council for determining the suitability of the particular site for the proposed use:

1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.

2) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

b. Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

c. Based upon the technical evaluation of the designated engineer or expert, the Dundas City Council shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

4. Factors Upon Which the Decision of the Dundas City Council Shall be Based. In passing upon Conditional Use applications, the Dundas City Council shall consider all relevant factors specified in other sections of this Ordinance, and:

a. The danger to life and property due to increased flood heights of velocities caused by encroachments.

b. The danger that materials may be swept onto other lands or downstream to the injury of others, or they may block bridges, culverts or other hydraulic structures.

c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

e. The importance of the services provided by the proposed facility to the community.

f. The requirements of the facility for a waterfront location.

g. The availability of alternative locations not subject to flooding for the proposed use.

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.

j. The safety of access to the property in times of flood for ordinary and emergency vehicles.

k. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

l. Such other factors which are relevant to the purposes of this Ordinance.

5. Time for Acting on Application. The Dundas City Council shall act on an application in the manner described above within ninety (90) days from receiving the application, except that where additional information is required pursuant to § 1504.10

D4 of this Ordinance. The Dundas City Council shall render a written decision within ninety (90) days from the receipt of such additional information.

6. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, the Dundas City Council shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- a. Modification of waste treatment and water supply facilities.
- b. Limitations on period of use, occupancy, and operation.
- c. Imposition of operational controls, sureties, and deed restrictions.
- d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
- e. Flood-proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

**§ 1504.11. NONCONFORMING USES.**

A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued, subject to the following conditions:

1. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
2. Any alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in §1504.11 A3 below.
3. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty (50%) percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the Community's initial flood plain controls must be calculated into today's current cost which will include all costs

such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds fifty (50%) percent of the current market value of the structure, then the structure must meet the standards of § 1504.04 or § 1504.05 of this Ordinance for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

4. If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

5. If any nonconforming use or structure is destroyed by any means, including floods, to an extent of fifty (50%) percent or more if its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The applicable provisions for establishing new uses or new structures in §1504.04 or §1504.05 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

**§ 1504.12. PENALTIES FOR VIOLATION.**

A. Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor and shall be punishable as defined by law.

B. Nothing herein contained shall prevent the City of Dundas from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

1. In responding to a suspected Ordinance violation, the Zoning Administrator and Local Government may utilize the full array of enforcement actions available to it, including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The community must act in good faith to enforce these official controls and to correct Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

2. When an Ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation, and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

3. The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls, and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either:

a. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or

b. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also, upon the lapse of the specified response period, notify the landowner to restore the land to the condition which existed prior to the violation of this Ordinance.

**§ 1504.13. AMENDMENTS.**

The flood plain designation on the Official Zoning map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this Ordinance, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the Ordinance amendment or technical study under consideration.

**§ 1504.14. PERFORMANCE, SITE DESIGN, LANDSCAPING, AND SCREENING**  
*HISTORY: Adopted by Ord. 2002-10*

**A. BUILDING PERFORMANCE STANDARDS:**

1. Three (3) copies of the following plans and/or specifications, shall be submitted in fulfillment of the requirements of this Ordinance:
2. Plans to be submitted shall be to scale and shall include:
  - a. Topographic map prepared by a licensed surveyor with: contours at 1-foot intervals; property boundaries and legal description; all on-site improvements shown; adjacent streets with curb lines and spot elevations at top of curb (or edge of pavement if no curb); existing utilities and service connections; trees over 8" diameter identified or tree lines if grouped; existing telephone, gas, electric, and cable utilities identified as overhead or underground.
  - b. Proposed Grading, Drainage and Erosion Control Plan with: all proposed improvements; proposed contours; proposed drainage system plan; proposed erosion control facilities. Drainage system plan design objective should be to provide controls such that post-development runoff does not exceed predevelopment runoff. Plans and specifications shall be prepared by an Architect or Engineer, as appropriate, licensed to practice in the State of Minnesota.
  - c. Landscape Plan indicating: layout of proposed landscaping; identification of plant species, size, and planting density (where appropriate); irrigation system layout, if included; identification of ground cover materials. Where a "screening system" is required, it shall be so indicated on the Landscape Plan. The Landscape Plan shall also include a "maintenance plan" (see 14.3 B.). Plans and specifications shall be prepared by an Architect, Landscape Architect, or Nursery, as appropriate.
  - d. Building Plans to scale, to include: interior floor layout and usage; UBC (State Building Code) occupancy group; exterior elevation renderings identifying exterior materials and all architectural features. Plans and specifications shall be prepared by an Architect or Engineer, as appropriate, licensed to practice in the State of Minnesota.
  - e. Signage Plan per Chapter 1500, Section 10 or Section 11.
  - f. Lighting Plan: Exterior lighting plan to be prepared by a licensed Electrical Engineer or Electrician, as appropriate.
  - g. Geotechnical investigation (if required by the City Engineer).

3. Plan Review:

a. Purpose: The purpose of this section is to establish a formal plan review procedure and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through his officially submitted plan documents.

b. Plans Required. Three (3) copies shall be submitted as set forth in 14.1A above. One (1) copy of site and construction plans will be submitted to and approved by the Building Official and the Fire Marshall prior to the issuance of any building permit.

c. Plan Agreements. All site and construction plans officially submitted to the City shall be treated as a formal agreement between the Owner/Developer, Building Contractor and the City. Once approved, no changes, modifications, or alterations shall be made to any plan detail, standard or specification without prior submission of a plan modification request to the Building Official and the City Engineer for review and approval.

d. Enforcement. The Building Official shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this section has been officially documented by the Building Official, or the City Engineer.

e. Copies of storm sewer calculations\_and soils reports\_shall accompany the plans.

f. Three (3) weeks shall be allowed for the review to be completed. If not approved as submitted, one (1) copy of the plans will be returned to the Developer's Architect or Engineer or with required corrections or changes noted in red. Ten (10) days shall be allowed for review of revised plans.

g. If approved as submitted, notification will be given to the Developer's Architect or Engineer.

4. Building Design and Materials: Building materials shall be attractive in appearance, of a durable finish, and be of a quality that is compatible and harmonious with adjacent structures. All buildings shall be of good aesthetic and architectural quality, to ensure they will maintain and enhance the property values of neighboring properties.

5. If the building configuration is placed on the lot in such a way that the main entrances are facing the side yard street, or interior side yard, they shall also meet the minimum three elements.

6. If the applicant and the City Engineer cannot agree on the proposed site and/or building features, then the applicant shall be required to present the proposal to the

Planning Commission for resolution of issues. The Planning Commission shall determine whether these requirements have been adequately addressed and incorporated, and shall forward its recommendations to the City Council for approval.

7. Specific Requirements:

a. Face brick, masonry block, architectural metals, wood, stone, glass, stucco, synthetic stucco architectural concrete and pre-cast panels shall be acceptable as the major exterior wall material when they are incorporated into an overall design of the building. Color impregnated decorative block shall also be allowed as a major exterior wall surface, and shall be required to be sealed. All materials shall be color impregnated, with the exception that architectural concrete pre-cast panel systems may be painted. Unadorned smooth pre-stressed concrete panels and/or non-decorative, smooth concrete block may be used if architectural features are incorporated. This paragraph shall also apply to all remodeling, or expansion of existing buildings that require a building permit.

b. Light gauge, unfinished sheet metal or unfinished metal shall not be used as exterior materials. This restriction shall apply to all principal structures, and to all accessory buildings. Roofs which are exposed or an integral part of the building aesthetics shall be constructed only of commercial grade asphalt shingles, wood shingles, standing seam metal, slate, tile, or copper. Flat roofs which are generally parallel with the first floor elevation are not subject to these material limitations.

c. All building and roofing materials shall meet current accepted industry standards and tolerances, and shall be subject to review and approval by the City Engineer and Building Official for quality, durability, and aesthetic appeal. For all new buildings and building exterior renovations, the applicant shall submit to the City product samples, building elevations, and associated drawings which illustrate the construction techniques to be used in the installation of such materials.

Building and roofing materials not specifically approved in this Section may be allowed by a Conditional Use Permit only after it is demonstrated that the proposed material is equal to or better than approved materials. The long-range maintenance of the proposed material shall be incorporated as a condition of the approval.

d. All structures shall have a concrete footing and foundation system, or an engineered floating slab system.

8. All trash, recyclable materials, and trash and recyclable materials handling equipment and compactors shall be screened from public view. See "14.3 D. 7)" Landscaping and Screening.

- a. Design and maintenance of off-street parking, dock, and traffic circulation areas shall be in accordance with City Standards. All such areas shall have an impervious surface, and shall be graded to drain. Exceptions to this requirement (impervious surface) will be considered based upon anticipated traffic usage and on-site runoff controls.
- b. Garages, accessory structures, screen walls and exposed area of retaining walls shall generally be of a similar type, quality and appearance as the principal structure; or shall otherwise enhance the appearance of the site/building.
- c. The ground level view of all rooftop equipment and related piping, ducting, electrical and mechanical utilities shall be painted to match the building, designed to be compatible with the architectural treatment of the principal structure, or screened by the use of parapet walls. Wood fencing shall not be used for screening such equipment.
- d. Ground mechanical equipment shall be screened from contiguous properties and adjacent streets by landscaping, or a screen wall shall be provided to be compatible with the architectural treatment of the principal structure.
- e. Outdoor storage of materials, equipment, unused vehicles, truck trailers, or products is not permitted unless authorized by Conditional Use Permit.
- f. To the extent possible, external loading and service areas accessory to buildings must be screened from ground level view from contiguous residential or commercial properties and adjacent streets, except at access points. When the site abuts any Residential District, there shall be no loading docks on any building elevation that is either directly facing or oriented towards a residence, unless appropriately screened.
- g. The height of any building or appurtenance in excess of thirty-five feet (35') in the Business / Commercial District shall be by Conditional Use Permit.
- h. To the extent feasible, the light from vehicle headlights and other sources shall be screened or shielded whenever it may be directed onto adjacent residential windows.
- i. Exterior site and building lighting shall utilize shielded fixtures to prevent light and glare from spilling over to adjacent properties.

**B. SITE DESIGN OBJECTIVES:**

1. *Objective:* To ensure that the development is appropriate to a growing urbanized location, and to establish and maintain aesthetic coherence among developments, and to minimize impairment of water bodies due to storm water runoff.

- a. Major buildings and entrances shall be oriented toward perimeter streets for visibility and access.
- b. Internal circulation within the site shall be designed to allow ease of access among buildings by vehicles and pedestrians.
- c. Service areas shall be oriented away from perimeter streets.
- d. On-site storm water treatment and retention shall be provided as required by the City Engineer, and may be utilized as part of the landscape plan.
- e. Access/egress locations shall be as approved by the City Engineer.
- f. Driveway widths shall be limited to a maximum width of 32-feet, and shall include a concrete apron to a minimum of 5-feet behind the curb line, or edge of pavement.
- g. Signage shall be in accordance with the sign provisions of the zoning district, per Chapter 1500, Section 10 or Section 11.

C. LANDSCAPING AND SCREENING:

1. General Requirements:

a. All exposed ground areas on a lot or parcel surrounding a principal or accessory structure that are not devoted to drives, sidewalks, patios and parking lots shall be covered with sod, or other approved ground cover, or other landscape materials as required or allowed herein. Ground cover exceptions may be permitted in an approved site plan for:

- 1) Seeding of future expansion areas as shown on approved site plans;
- 2) Undisturbed areas containing existing viable natural vegetation that can be maintained free of foreign and noxious plant material;
- 3) Use of mulch materials such as wood chips in support of shrubs and foundations plantings.

b. Percentage of Landscape Area. The recommended percentage of landscaped area for a site is:

- 1) Industrial Districts 15
- 2) Commercial Districts 10

Variation from these percentages will be considered in conjunction with review of the overall site plan, where the variations do not detract from the appearance of the site and conformance with the objectives of this section.

c. Planting Requirements. The Landscape Plan shall include a mix of deciduous and coniferous trees, shrubs flowers, berms, and ground covers as deemed appropriate to a complete quality landscape treatment of the site.

d. Certificate of occupancy requirements. The landscape plan and its maintenance plan shall be part of the Certificate of Occupancy. No Certificate of Occupancy shall be issued without approval of a landscape plan. In the event that weather conditions prohibit the installation of such landscaping, a deposit or irrevocable letter of credit, in the amount to be determined by the City Engineer, shall be submitted to the City as security for completion of the improvements. Following completion of the landscaping improvements, the City shall release the deposit less an administrative fee reflecting the City's cost related to monitoring and completion of the improvements. The City reserves the right to expend the deposited funds to insure completion of the improvements.

Failure to implement the approved landscape plan within six months of the issuance of a Certificate of Occupancy shall be cause for revocation of the Certificate of Occupancy.

2. Maintenance.

a. All yards, open spaces and landscaped areas on developed or undeveloped lots or parcels must be kept free from accumulations of garbage, trash, refuse, debris and other unsightly or nuisance creating materials.

b. All landscaping shall be continually maintained by the owner or other person responsible for maintenance of the premises, and all planting areas shall be kept free of weeds and debris. Turf shall be mowed, and maintained at a length not exceeding 6-inches (6").

c. All required landscaping shall be replaced if the planting dies or is otherwise removed.

d. Boulevard areas adjacent to streets and alleys shall be maintained by the adjacent property owner, to the curb line or edge of roadway.

3. Location.

a. Landscaping and screening shall be interrupted only by required access drives and sidewalks. All landscaping and screening shall be so designed and maintained as to preserve unobstructed vision of streets and sidewalks at points of access.

b. Where landscaping is proposed within a public right-of-way, or drainage and/or utility easement, then a Conditional Use Permit shall be secured which sets

forth the terms and conditions for removal and replacement of such landscaping if work is necessary within the easement area.

4. Landscape plans, specific requirements.

a. Content of landscape plan. All landscape plans submitted for approval shall contain or have attached thereto the following information:

- 1) The location and dimensions of all existing and proposed structures, parking lots and drives, roadways and right-of-ways, sidewalks, bicycle paths, ground signs, lighting, refuse disposal areas, bicycle parking areas, fences, freestanding electrical equipment, tot lots and other recreational facilities and other freestanding structural features.
- 2) The location, quantity, size and name, both botanical and common names, of all proposed planting materials.
- 3) Existing and proposed grading of the site, including proposed berms, indicating contours, at one foot intervals.
- 4) Specification of the type and boundaries of all proposed ground cover.
- 5) Irrigation plan, if proposed.
- 6) Elevations, cross-sections of fences, and other details as determined necessary by the City Engineer.
- 7) Location, size and name of existing trees, if any, and any unique or special areas of existing vegetation.
- 8) Maintenance Plan: See 14.3 B, above.

b. Design criteria. Landscaping plans described above shall be prepared based on the following design criteria. The evaluation and approval of landscape plans shall also be based on these design criteria.

- 1) Scale and nature of landscaping material. The scale and nature of landscaping materials shall be appropriate to the size of the structures. Large scaled buildings for example shall generally be complemented by larger scaled plants. Landscaping of larger areas, such as required yards, shall be accomplished by both horizontal landscaping elements, such as planting beds, and vertical landscaping elements, such as trees, berms and fences.

- 2) Selection of plant material. Plant material shall be selected for its form, texture, color and concern for its ultimate growth.
- 3) Softening of walls and fences. Plant material shall be placed intermittently against long expanses of building walls, fences and other barriers to create a softening effect.
- 4) Planting bed. Planting beds shall be mulched with bark chips or living ground cover.
- 5) Detention/retention basins and ponds. Detention/retention basins and ponds shall be landscaped. The landscaping shall include shade and ornamental trees, evergreens, shrubbery, hedges and/or other planting materials.

c. Slopes and Berms.

- 1) Final slope grades with a ratio of 3:1 or steeper will not be permitted without special landscaping treatment such as terracing, retaining walls, or reinforced ground covers.
- 2) Earthen berms and existing topography shall be incorporated into the landscape treatment of a site, particularly when combined with plant material to facilitate screening from adjacent residential or other uses.
- 3) Berms shall be designed to allow for maintenance, mowing and adequate drainage.
- 4) The elevation and horizontal ground location of any berms shall be varied in order to mimic a natural topographical feature.

d. Parking Lot Landscaping and Screening. In addition to the other landscaping requirements of this section, the following requirements shall apply to off-street parking areas:

- 1) Setbacks and Perimeter Landscaping. Off-street parking areas with four (4) or more stalls, and truck dock/delivery areas, shall be buffered by perimeter landscaping. Such landscaping shall consist of a combination of ground cover, trees, shrubs and/or appropriate screening devices.
- 2) Interior Landscaping. Off-street parking areas that contain thirty (30) or more stalls shall provide interior landscaping as follows:
  - a) The interior landscaping shall constitute at least 5% of the area of the parking lot. Area devoted to perimeter landscaping is not considered as any part of interior landscaping.

- b) The minimum width of landscape islands is eight-feet (8').
- c) Islands shall be bounded by concrete curbing.
- d) Islands shall plantings and sod or other approved ground cover.

e. Screening When Adjacent to Residential Property. When adjacent to a Residential Area, all off-street parking areas with four or more stalls shall be screened from all sides adjacent to the residential property.

f. Off-street loading areas: Every off street loading area visible from a Residential Area, and visible from any public street, shall be screened.

g. Trash handling areas: To the extent possible, all trash handling, recyclable material containers and equipment, except those containers used on a temporary basis for a construction or disposal activity, shall be screened (to a sufficient height) from eye-level view by all adjoining properties and all streets. Refuse or recyclable material containers shall be located within rear or interior side yards. No refuse or recyclable material containers shall be located within any front or corner side yard.

h. Outdoor storage areas: Screening of outdoor storage areas is required. Outdoor storage areas are required to have a Conditional Use Permit.

i. Buffering and Screening.

1) Where a development is adjacent to a Residential Area, there shall be a landscaped protective strip established as a buffer zone in the yard that is adjacent to the Residential Area, to include areas where the development is separated from the Residential Area by a street.

2) The buffer zone shall contain no structures and shall not be used for offstreet loading or outdoor storage, but may be used for parking in accordance with the parking setback and screening requirements of this section, and the Zoning District.

j. Fences, Walls and Landscape Screens/Buffers. Any fence, wall or landscape screen used to meet the screening requirements of this section shall meet the following requirements:

1) Screens/buffers shall not extend within 15 feet of any street or driveway. The screening shall be placed along property lines where possible.

2) The outside base of a wall or fence shall be landscaped if the wall or fence fronts on a public street or is adjacent to a Residential Area.

3) No fence, wall, landscape screen or other screening device shall be permitted to encroach on any public right-of-way or infringe on any vision triangle, except with prior approval of the City Engineer.

D. CONFORMANCE AND ENFORCEMENT - NEW CONSTRUCTION.

1. Where compliance is not possible due to site conditions, then compliance shall be achieved by a Conditional Use Permit, which establishes the achievable level of and schedule for compliance, and the terms and conditions related thereto. Non-compliance shall exist where compliance is not achieved, and a Conditional Use Permit has not been secured. Noncompliance shall also exist where the terms and conditions of a Conditional Use Permit are violated. Non-compliance shall be subject to the provisions of Article 1500, Section 17, ENFORCEMENT AND PENALTIES.

2. No variances shall be granted with respect to the requirements set forth herein. Exceptions shall be made only via a Conditional Use Permit. Requests for a Conditional Use Permit shall not be based solely upon financial considerations, but shall only be based primarily upon the physical inability to achieve conformance with the requirements of this Ordinance at the subject site. The Planning Commission shall determine whether a Conditional Use Permit may be issued or denied, and shall forward its recommendation to the City Council for action.

E. CONFORMANCE AND ENFORCEMENT - EXISTING SITES.

1. It is the City's intention to secure general compliance with the performance standards set forth herein, to the extent conformance is achievable. A schedule for evaluation of existing sites will be established by the City Council. Upon site review, and where compliance is lacking, then a Conditional Use Permit will be negotiated with the property owner. The Conditional Use Permit shall establish the level of compliance to be achieved, and the schedule for completion of compliance related activities.

2. Non-compliance shall exist where compliance is not achieved, and a Conditional Use Permit has not been secured, or when the property owner does not cooperate as set forth in §1504.14 E1, above. Non-compliance shall be subject to the provisions of Article 1500, Section 17, ENFORCEMENT AND PENALTIES.

3. No variances shall be granted with respect to the requirements set forth herein. Exceptions shall be made only via a Conditional Use Permit. Requests for a Conditional Use Permit shall not be based solely upon financial considerations, but shall be based primarily upon the physical inability to achieve conformance with the requirements of this Ordinance at the subject site. The Planning Commission shall determine whether a Conditional Use Permit may be issued or denied, and shall forward its recommendation to the City Council for action.

F. CONDITIONAL USE PERMITS.

1. Conditional Use Permits, as referenced herein, shall apply only to this Subsection §1504.14.

G. CONFORMANCE AND ENFORCEMENT - CITY COUNCIL.

1. The provisions of this Subsection § 1504.14 shall be enforced as directed by the City Council.

*HISTORY: Amended by Ord. 2002-10*